

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL ACTION NO. 5:05-cr-00221

VINCENT EDWARD LARKIN,

Defendant.

MODIFICATION OF SUPERVISED RELEASE

On September 23, 2010, the Defendant, Vincent Edward Larkin, appeared in person and by counsel, Christian M. Capece, for a hearing on the *Petition for Warrant or Summons for Offender Under Supervision* submitted by the Defendant's supervising probation officer. The United States was represented at the hearing by Bill King, Assistant United States Attorney. United States Probation Officer Amy-Berry Richmond was also present at the hearing.

On April 26, 2006, the Defendant was sentenced to a term of imprisonment of 18 months to be followed by a 3 year term of supervised release. The Defendant began serving the term of supervised release on February 23, 2007. On March 19, 2008, the Defendant appeared before this Court for violating certain conditions of his supervised release. At that time the Court revoked the Defendant's supervised release and sentenced him to a term of imprisonment of 12 months and a supervised release term of 60 months. On August 11, 2010, the *Petition for Warrant or Summons for Offender Under Supervision* was filed charging the Defendant with violating certain conditions of supervised release.

At the hearing, the Court found that the Defendant had received written notice of the alleged violations as contained in the *Petition*, and that the evidence against the Defendant had been disclosed. The Court further found that the Defendant appeared, was given the opportunity to present evidence, and was represented in the proceeding by counsel.

The Court then found, by a preponderance of the evidence, that the Defendant violated certain conditions of supervised release as contained in the *Petition*, specifically:

1. **Violation of standard condition: The defendant shall not commit another Federal, state or local crime and shall not illegally possess a controlled substance.**

Vincent Larkin was arrested and charged with the following violation of West Virginia Code: 17B-4-3(b), driving suspended/revoked for DUI, on December 8, 2009.

On February 23, 2010, Mr. Larkin entered a guilty plea in Raleigh County Magistrate Court to the reduced charge of driving suspended. Mr. Larkin was fined \$100, and ordered to pay \$159.50 cost.

On January 28, 2010, Mr. Larkin was arrested and charged with a violation of West Virginia Code: 17B-4-3(b), driving suspended/revoked for DUI.

On May 25, 2010, Mr. Larkin appeared in Raleigh County Magistrate Court and entered a guilty plea to the lesser charge of 1st offense driving suspended. He was fined \$100 and ordered to pay \$159.50 cost.

2. **Violation of standard condition number 11: The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.**

The offender failed to notify this officer of his arrest on December 8, 2009; January 28, 2010; and June 23, 2010.

In making these findings, the Court relied upon the information contained in the *Petition* and the statements made by Defendant's counsel.

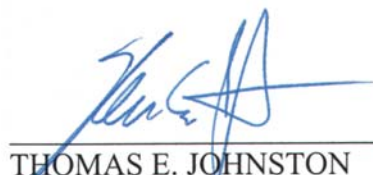
Having found the Defendant to be in violation of the conditions of supervised release, the Court **MODIFIED** the Defendant's conditions of supervised release as follows: The Defendant shall serve a 6 month term of home confinement, which shall include electronic monitoring, subject to the terms and conditions of the home confinement program administered by the Probation Office. While on home confinement, the Defendant shall not leave the approved residence, except with prior approval from the probation department, for approved employment, approved school schedule, observance of religious services, medical or other emergencies, or any other absences approved by the Court or by the Defendant's probation officer.

All previously imposed conditions of supervised release remain in full effect.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to the Defendant and counsel, the United States Attorney, the United States Probation Office, and the United States Marshal.

ENTER: September 27, 2010



THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE